

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

In the Matter of

Petition for Arbitration of an Interconnection
Agreement Between Charter Fiberlink MA-
CCO, LLC, and Verizon-Massachusetts Inc.

Docket No. 06-56

VERIZON MASSACHUSETTS MOTION TO DISMISS

Verizon Massachusetts respectfully moves that the Department dismiss the Petition for Arbitration of Charter Fiberlink MA-COO, LLC Pursuant to 47 U.S.C. § 252(b). Charter's petition asks the Department to arbitrate several issues regarding an amendment to the parties' interconnection agreement to provide interconnection over fiber meet arrangements. The Department should dismiss Charter's petition because none of the issues listed in Charter's petition is subject to the Telecommunications Act's arbitration provisions.

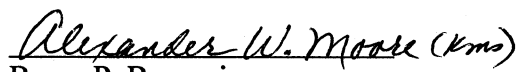
Section 252 of the Act provides that "the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues." 47 U.S.C. § 252(b)(1). None of the issues listed in Charter's petition were "open" issues during the parties' negotiations. As explained more fully in Verizon MA's response to Charter's petition, filed herewith, Charter has reneged on the agreements reached during negotiations in order to create "open" issues for purposes of its arbitration petition. In addition, Charter's petition raises issues that were never discussed during the parties' negotiations.

Charter's petition reflects a gross abuse of the Act's arbitration process. That process is only available to resolve issues that remain open after the parties' have negotiated in good faith. It is not a process by which a carrier can reopen issues that were closed during the negotiations or raise new issues for the first time that were never raised during the negotiations. Yet that is precisely what Charter is attempting to do through its arbitration petition. The "open" issues listed in Charter's petition are not subject to arbitration because they were either closed during the negotiations or never raised during the negotiations. The Department should therefore dismiss Charter's arbitration petition.

Respectfully submitted,

VERIZON MASSACHUSETTS

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July 18, 2006